

The Grand
INDICTMENT
OF
HIGH-TREASON

Against the
Marquess of Argyle,

AT THE
Instance of His Majesties Advocat.

EXHIBITED
To the

PARLIAMENT
of
SCOTLAND,

WITH
An Account of what hath followed
since thereupon.

Printed for the Author. 1661.

ADVERTISEMENT.

READER,

T*His Grand Indictment differs onely
in two or three Articles from the
other printed Charge at the instance of
Sir James Lamond.*

The Grand
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High-Treason,
 Against the
Marquess of Argyle.

A **RCHIBALD** Marquess of Argyle, you are indicted and accused, and are to answer at the instance of Sir *John Fletcher* Knight, His Majesties Advocate for His Majesties interest: That whereas by the Laws of God expressed in Holy Writ, by the Laws of Nations, by the common Law, and by the municipal Laws and Practice of this Kingdom, especially by the third Act of the first Parliament of King *James* the first, and by the first act of King *James* the 6th Parl: 18. of blessed memory, and by several other acts of Parliament, all good and loyal Subjects of this Kingdom are bound and obliged perpetually to acknowledge, obey, maintain, defend and advance the Life, Honour, Safety, Dignity, Sovereign Authority, and Prerogative Royal of their Sovereign Lord and King, their Heirs and Successors, and privilege of their Crown with their lives, Lands and Goods; to the utmost of their Power, constantly and faithfully to withstand all, and whatsoever, Persons or Estates, who shall presume, preach or intend, any ways to Impugn, Prejudge, or Impair the same, and shall no way Intend, Attempt, Enact or do any thing to the Violation, Hurt, Derogation, Impairing or Prejudice of His Highness Sovereign Authority, Prerogative, and Privilege of His Crown, or any point or part thereof: And whosoever doth the contrary to be punished as Traytors, and to forfeit their Lives, Lands and Goods. Likewise by the 25 Act of the 6 Parl. of K. J. 2. and by the 75. Act of the 9 Parl. Q. M. All rising in fear of War against the Kings Person or Majesty: All attempting to raise any band of men of War, Horse or Foot in warlike posture, without special licence of the Kings Majesty, and all suppliers of them in help, Redress or Counsel, are punishable as Traytors, Likewise by the 43. Act of the 3 Par. K. J. 1. and by the 134 Act of the 8. Parl and by Act 10. of 10. par. and by the 205 Act of 14. Par. of K. J. 6. It is Statute and ordained, That no Subject of whatsoever function, degree or quality shall presume or take upon him publicly or privately to declaim, speak or Write any purpose of reproach, slander, disdain or contempt of His Majesties Person, Estate or Government, or tending to the dishonour, hurt or Prejudice of His Highness, his Parents or progenitors: Or to meddle in the Affairs of His Highness, and his Estate present, by-gone, or in time coming, nor to deprive his Laws and Acts of Parliament, nor wilconferne his proceedings, whereby any mislikeneing may be

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moved betwixt the Kings Majesty, His Nobility and loving Subjects, under the pain of losing their Lives, Lands and Goods, and others therein contained: As also all hearers of any such leasings, slanderous speeches or words, and concealers thereof, without apprehending of the Authors (If it lye in their Power) as reveal not the same to his Majesty or such of his Judges or Officers, and are mentioned in the said Acts, are liable to the like punishment, as the principal Offenders.

Likewise by the 130 Act of the 8. parl. of K. J. 6. it is statute and ordained, That none of His Majesties Leiges and Subjects presume or take upon hand to impugn the Dignity and Authority of the Estates of Parliament, or to seek or procure the innovation or diminution of the Power and Authority of the same, under the pain of Treason.

Likewise by the last Act of the 3 Par. of K. J. 5. and by the 33. Act of the first Par. of K. J. 6. all burning of Houses or Corn, and wilful fire-rising is declared Treason, and the Committers thereof are to be Punished.

Likewise by the 51. Act of the 11 par. of K. J. 6. It is statute and ordained, That the murder and slaughter of what soever His Majesties Leiges, where the party slain is under the Trust, Credit, Assurance and Power of the slayer, all such murder and slaughter shall be Treason, and the Persons found culpable shall forfeit Life, Lands and Goods.

Likewise by the 37. Act of 2. parl. K. J. 1 and by the 144. Act of the 12. Parl. K. J. 61 All Receivers, Suppliers or Intercommoners with any Traytors, are punishable by forfeiture as the Traytors themselves.

Likewise by common Laws and practice of this Kingdom, all Concealers and not Revelers of any malicious purpose of putting any violent hands on the sacred person of our Dread Sovereign the Kings Majesty, or purpose of killing or putting him to Death; and all Advisers, Counsellors, Aiders, Abettors or Havers of any accessions there to, are punishable as Traytors.

Nevertheless, 'tis of verity, that you the said Marquess of Argyle, having laid aside all fear of God, Loyalty to His Sacred Majesty, and to His Royal Father of ever blessed Memory, natural Duty and Affection to your native Countrey and Countrey men, and respect and obedience to the Laws of all well governed Realms, the Common Law, and the Laws, Statutes, Acts of Parliament, and practices of this Kingdom, and having trayterously intended and purposed the eradicating and subverting the fundamental Government of this Kingdom: At least the enervating, violating, derogating, or impairing the Sovereign Authority, Royal prerogative of his Majesty, and privilege of the Crown, You for carrying on of your said wicked purpose, having gathered and convoked together in a hostile manner, a great many of your Friends, Servants, Vassals, Followers and others of His Majesties Leiges, without any warrant licence or Command from His Majesty; and therewith under pretext of opposing such as by you were the nicknamed *Anti covenanters*; and opposers of the work of Reformation (but who indeed were faithful Assertors of his Majesties lawful Authority) having marched to the foord of Lyon in Arbol in the month of 1630

there did in your tent, and in presence of a great many Gentlemen and others publicly declare, That it was the opinion and Judgement of many Divines and Lawyers, that a King may be deposed for desertions, venditions, and invasions: And that howbeit that your words were in abstraction from any King, yet that the sense and meaning thereof might appear to be of the then Kings Majesty, your dread Sovereign, you immediately did subjoyn and say to the late Mr. John Stuart, of Ladiwel; And Mrs John, you understood Latine.

Likewise considering the condition of the Kingdom, and the oppositions that a great many of the People were in to His Majesty; particularly you the said Marquess, and your Complices and Followers; it is clear that the said words did not only reasonably reflect upon Kingly Government, as being subject to the People, who might in the cases aforesaid depose a King: but also it is clear, that your meaning also, and intencion thereby was, that the Kings Majesty, your dread Sovereign might be so dealt with: And the said Treasonable speeches were so vented by you, of design to utter in your many Treasonable actions and practices done by you unto His Sacred Person, Dignity, and Authority, which doubtless did occasion, and was mainly instrumental both in his deposition and cruel murder: Which wicked and Treasonable speeches, the said Mr. John having thereafter reported, you most cruelly and tyrannously did prosecute him to death, as a Leasing-maker betwixt the Kings Majesty and His good Subjects, howbeit you could not be but conscious of the Truth of what he had reported,

Second:

Secondly, In prosecution of your foresaid wicked and treasonable purposes, you having marched with the said Forces to the House of *Airlie*, belonging to his Majesties Right trusty & well beloved Cozen and Counsellor *James Earl of Airlie*, which was then kept for His Majesties Service and Authority, After you had forced the rendition of the said House, and destroyed the Woods and Plantings of the same, and Heared and Destroyed the said Earls Friends and Tennants, His Majesties good Subjects, you did slight and demolish the said House; and to express your hatred against the said Earl, meerly for his Loyalty to His Majesty, did seize or by those under you did cause seize upon the House of *Forther* in *Glenyla* belonging also to the said Earl, and without any colour or pretence of offence did wilfully, most treasonably, and contrary to the foresaid Acts of Parliament, raise fire in the said House, and thereby Burnt and Destroyed the same, and hail Furniture therein.

Thirdly, In further prosecution of your treasonable Plots, and Machinations against His Majesties Person and Authority, contrary to the foresaid Laws and Acts of Parliament, in *Anno 1640.* you in an hostile manner, did most treasonably lay siege to His Majesties Fort and Castle of *Dunbarton* then fortified and kept for his Majesties service by Col. *Henderfon* having His Majesties Warrant and Commission for that effect, and forced the said Colonel to render the said Castle to you; out of which most treasonably you caused to be transported and carried away a great many of His Majesties cannon and other Ammunition, appointed for defence and security of the said Castle.

Fourthly, Notwithstanding that his then Majesty had in *Anno 1641:* Come himself in Person to this Kingdom, and most graciously condescended to all such Acts as were required of him (how unjust soever) for settling and pleasing the People, and settling a peace; and that he had past one Act of Oblivion, to indemnifie all such as had formerly been in opposition to His Majesty within this Kingdom, and that he had conferred upon you the Title and Dignity of Marquess, as a Mark of His Royal favour, and put you in places of gratest trust in the Kingdom: And that you had sworn and promised in the Abby of *Holyrudhouse*, that in case any trouble or commotions should happen to be raised in *England* by any of his discontented Subjects against him, you would assist and defend him against all such to the hazard of your Life and Fortune: And that His Majestie had parted from this His Antient Kingdom, as was said and acknowledged by all, a contented Prince from a contented People: yet nevertheless His Majesty being forced and necessitated in *anno 1642.* To leave His Parliament in *England* then sitting at *Westminster*, and His Royal Palace of *Whitehal*, and betake himself to defensive arms, for maintenance of his Royal Person, Dignity and Authority, and to protect the same against an Army of *Seſſaries*, who maliciously, traygerously, cruelly and treasonably did invade the same; you contrary to your Allegiance, duty, obligations and recent promise aforesaid; did by your self and complices, to fortifie and strengthen the said Rebels and *Seſſaries*, and in direct opposition to His Majesties Person and Dignity, did call or cause to be called a pretended Convention of Estates in *anno 1643.* without any shadow or colour of lawful Authority, and you and they so convoked did take upon you the supream Authority of the Kingdom enter into League with His Majesties enemies, impose Subsidies and Excise upon the People, and raise an Army of his Majesties own Subjects, and therewith entred His Majesties Kingdom of *England*, seized upon His Majesties Towns and Forts there; and killed, murdered, plundered and destroyed His good Subjects, and in open and pitcht fields fought for, with and in behalf of the said Rebels, against His Majesties Forces, which in effect was the rise and cause of all the subsequent ruines and disasters that befall His Majestie or His loyal and good Subjects thereafter.

Fifthly, in *anno 1645.* after your return from *England*, to shew your implacable malice and hatred to all such as had any dependance upon, or affection to His Majestie, you by your self, and others under your command, or at your direction, did most treasonably raise most wilful fire, and burn the House of *Menstrie* Lyfrented, by the Countess of *Sterling*, and in her possession, and all the moveables and furniture, there extending to a great value, notwithstanding that the said Countess was an honorable aged Woman; and who, and her decessit Husband, the Earl of *Sterling*, by all observances and dutiful respects obliged you, so far as in them lay; thereby adding to the said act of Treason, the height of oppression and ingratitude,

Sixthly, in the year, 1646. You by your self, or those under your command, or for whom

whom you were answerable; or whom you might have stopped or impeded, did take in the House of *Towart*, belonging to the Laird of *Lamond*, and the House of *Escoje*, belonging to *Lamond of Ascoje* and after Articles of Capitulation drawn and subscribed by the Laird of *Arkinglas*, and other Officers under your Command, did most treasonably in manner aforesaid, under trust and assurance, as said is burn the said House of *Ascoje*, cruelly hang kill and murder a great many of the said Lairds of *Lamond* and *Ascojes* friends and followers; as is more fully exprest in the Summons raised at their instance and mine for His Majesties interest against you, and which is repeated as a part of this Article.

Seventbly, You having trayterously intended the utter ruine and extirpation of all faithful and Loyal Subjects who had given Testimony of their faithfulness to His Majesties dearest Father, of ever blessed memory; and having with an Army of your Complices, Associates, Vassals, Servants, Tennents and followers in anno 1646. marched to *Kintyre*, where a great many of His Majesties well-affected Subjects of the name of *Mac Donald*, *Mac Coull*, and others, whose names are not particularly known to the number of 300 or thereby had fortified themselves for their security, against your oppression and violence in the House of *Lochehead* and *Dunnavertie*: And you with the said Forces, at least, a part of the said Forces having marched to the said House of *Lochehead*, the Gentlemen and others therein, without making the least opposition, and declaring that they had refused themselves to the said place for shelter and Protection, did render up the said House and themselves upon assurance, that they might freely and quietly return and live at their own Homes; according thereto, they were dismissed and sent Home, where they remained in peaceable manner by the space of _____ days, Norwithstanding thereafter, you and the forces aforesaid having besieged the castle of *Dunnavertie*, during the said siege, there were several Rendezvouz appointed for the said Gentlemen to make their appearance, which frequently they did, and were still dismissed, until such time as those who were within the said House of *Dunnavertie* had rendered up the said House and themselves, to be disposed upon at the mercy of the Kingdom or pretended Committee of Estates: And that notwithstanding thereof, you and your said Complices had most perfidiously, treacherously and treasonably, (and for which also you are hereby indicted) slaughtered and murdered, or caused to be slaughtered or murdered, the number of 260. of them, or thereby they being under your trust, assurance, credit, or power, and did dispose upon the rest of them at your own hand, without any lawful warrant, to Captains, *William Hay*, and *Archibald Campbel*, to serve in the French Wars: then and hereafter you caused, appointed a new Rendezvouz of the said Gentlemen, who were in the House of *Lochehead*, and their followers who having appeared in frequent manner, you caused to be singled out fifteen or sixteen of the said Gentlemen, who were that night sent to the said House of *Lochehead*, and the next morning brought forth by you, or such as were under your Command, and most perfidiously, cruelly, and inhumanely, without any Order of Law, or Form of Process Civil or Military, hanged and murdered. And to aggravate the said cruel and barbarous crime, It is of verity, That one of the said Persons so murdered being an old man, and having one son, of age not above sixteen or seventeen years the father immediately before his death did depone, that his said son had never carried any Arms offensive all his life time, but that he had still been at Schools; and that some few days before, he had come from *Glasgow*, the place of his Education, to visit his Parents, and therefore did earnestly supplicate, in regard of his innocency, his life might be spared: Norwithstanding you, and the bloody Actors of your purposes were so unmerciful, as not to hearken to the said so just desire of the said dying old man, but forthwith the said young innocent boy was cruelly also hanged to death, Likewise not content with the aforesaid unheard of horrid acts of cruelty, you in the moneth of _____ 1640. years, or one or other of the moneths thereof, by your self and Followers, or such whom you might have kept or let caused to be transported from the Isle of *Isa*, to the Isle of *Jura*, to the number of two hundred persons of all sexes and ages, where all means of livelihood and subsistence being withdrawn from them, they in a most miserable manner were pined and starved to Death by Famine, except some very few, who outlived the rest, and were relieved and carried out of the said Isle by boats, accidentally coming by: Likewise the person of _____ *Mac Donald*, alias *Colmac Gillepsy*, or *Colkittoche*, being in anno _____ ordained by the Parliament, or Committee of Estates thereof to have been brought from prison out of the House of _____ where he then was, & where he had been kept by you and others in your time, many years before to *Edinburgh*, that the causes for which he had _____

had been kept, and so detained in prison, might have been known, and he having for that end been brought in a ship the length of the road of *Leith*; you for preventing such information of your cruelty and oppression exercised towards him, and many of his friends and relations, which he was able to have given and made out: you in manifest contempt and scorn of the Authority of that Parliament, under which you your self acted, caused take the person of the said *Colkittoche* forth of the said ship, & after you had carried him to your own lands and bounds, cruelly caused hang him to Death,

Eighly, Notwithstanding of the manifold acts of mercy and favour, dignity, honour and trust conferred upon you, by your then Dread Sovereign, for reclaiming of you from your disloyal and treasonable practices, plots and machinations, against His Sacred Person, Dignity and Authority; he being sore pressed and reduced to great straits and extremities by that Army of Sectaries before mentioned, with whom you had formerly joyned as said is. And having in that exigence and difficulty rather chosen from an innate principle of affections of his Country-men to cast himself over in the hands of the Army of his Majesties Subjects of his ancient Kingdom of *Scotland*, for shelter and preservation of His Royal Person. Nevertheless, you the said Marquels of *Argyle*, being the chief Ringleader of that factious party, who then swayed the Estate and Affairs both in Council and Armies in the said Kingdom, did so contrive and complot, and by your influence so prevail, that after all fair offer made by his Majestie, and His earnest desire to have come and lived in *Scotland*, until such time as all differences in both Kingdoms had been settled; That a pretended Act of Parliament was made for abandoning and leaving His Majestie to the disposal and mercy of the inveterate Enemies of His Majestie and Government, the said Armies of Sectaries. And that your acting in, and accessions to the said Affair might be the more evident and clear; and to aggravate your eminent and singular guilt therein, you your self went to *London*, where you basely under pretext of satisfaction for the Arrears of the said Army, raised by the pretended Authority of the pretended Convention of Estates, in anno 1643. as said is treacherously and Treasonably, gave up, at least condescended to the upgiving of your Dread Sovereign and Master, and that as being impowered so to do by the Kingdom of *Scotland*; and thereby did rub an indelible mark of reproach and infamy upon the whole Nation to all generations, so far as in you lay. And further to clear your foresaid treasonable dealings, accessions to, and correspondency with that infamous party of the said Army, who carried on the said abominable and detestable act, you being at the same time in a pretended joynt Committee of both Kingdoms, while as the English therein did call in question whether the Scots Army would sincerely concur with them in their said Treason and Treachery, you after many arguments used in their Favours; earnestly desired them to have patience for a little time & it would appear by somewhat to the Officers of the Army, how far they intended to concur and go along with them. Likewise within few days after there was a Vindication and Declaration emitted in name of the said Armies, whereby it was held forth, that in case His Majesty would not condescend to all the desires of both Kingdoms, which was no less then the divesting himself of all Regal Power, Civil, Ecclesiastical or Military in State, Church or Armies, they would deliver him up; which impietously after the payment of 200,000. *Lib.* basely and Treasonably was done by you and them.

Ninthly, In Anno 1648. His Majesties Royal Father being contrary to all Laws, Divine & Humane, most unchristianly barbarously & treasonably detained and kept prisoner within the Castle of *Newport* in the Isle of *Wight*, by a party of Factious, disloyal and rebellious Sectaries: The Estates of Parliament then convened by his Majesties Authority, having taken the said inhumane, treasonable and cruel usage to serious consideration, they found this Kingdom engaged in honour and Duty to resent so horrid and unheard of cruelty and lese-majesty, and obliged to use their utmost endeavours to relieve him out of the hands of such wicked Usurpers, and to restore him to the former exercise of His Royal Authority in Freedom, Honour, and Safetie; for effectuating whereof after all other fair ways essayed, upon mature consultation had, they found that the only probable means was the raising of an Army of His Majesties good Subjects, which was accordingly Statute and Ordained by Act of the said Parliament, against the carrying on of which, so just laudable and necessary a dutie, you did most violently and eminently oppose your self, not only by arguing, voting against, and using all other means in your power to obstruct the same but

also after the same was past in an act of Parliament, you did most contemptuously and treasonably publicly dissent from, and enter a Protestation against the same; and not being therewith content, after the said Armie in pursuance of their Dutie and allegiance had marched into His Majesties said Kingdom of England, you shortly thereafter in the moneth of _____ in contempt of the foresaid Authoritie, and against the preservation of His Majesties Person and Authority; Did most treasonably convocate an Army of factious, seditious and Rebellious Subjects in opposition to the said Armie, and therewith committed divers and sundry outrages, murthers, slaughter, plunders and vastations upon the persons and estates of divers of His Majesties good Subjects, and therewith invaded several Cities and Castles, seized thereupon, and upon the Magazens with Arms and Ammunition therein: And at that time the said Rebellious Army of Sectaries of England, being upon the borders, you fearing and apprehending that the force and power raised by you should not be able to withstand His Majesties good and Loyal Subjects, who were then risen and ready to rise in Arms for asserting and vindicating His Majesties Just Authority, you did most basely, treacherously and treasonably call into your aid and Assistance the said Armie of Sectaries: Likewise you your self went in person to the House of Mordington belonging to the Lord Mordington within a mile of the English borders to the end foresaid, you did meet with the vile Usurper *Oliver cromwel*, Commander of the said Army, with whom you had several private meetings and consultations, and thereby perswaded and so prevailed with the said Traytor, that he thereafter marched with the said Armie to *Edinburgh* and the places thereabout, and which march and incoming of the said *Oliver* you might have undoubtedly hindered: in so far as it can be made appear by clear proofs and Testimonies of famous persons. That it having been complained upon to him at the said House of *Mordington*, that by reason of his lying there with such a great number of Souldiers, the Lord *Mordingtons* tenants would undoubtedly be ruined: He the said *Oliver* made answer, that he could not help the same, for his staying and going did depend upon you, and that he was ready if you desired, to march back to *England*; at least, you did contrive, advise or consult the rising and convocating of the said seditious, factious, and rebellious Armie; at least was one of the number your self, present and with, and assisting to them in arms; at least, did vote, counsel or perswade the incalling of the said Army of Sectaries: and they being so brought in, you did countenance, assist, concur and consult with them, or their Commanders, or some of them in publique or in private at *Edinburgh*, and in the *Cannongate* in the house called *Lady Homes Lodgings*, and in divers other places. As also, you did most villanously and trayterously contrive, counsel or vote, to the drawing up of a Letter directed to the Traytor and abominable Usurper; wherein you and your complices did engage your selves, in the name of the Kingdom of *Scotland*, to imploy your utmost endeavours, that none who had been active in, or consenting to the engagement against the said Sectaries, or had been in arms at *Sterling*, or elsewhere, in maintenance or pursuance of that engagement, should be imploy'd in any publique place or trust within this Kingdom whatsoever, without advice or consent of the Kingdom of *England*; as the said Letter dated the sixth day of *October*, 1648. more fully bears. As also, you did draw up, at least did counsel, advise or vote, to the updrawing of certain Instructions given to *Sir John Chiesly* who was sent by you and your complices as Commissioner to the pretended House of the Parliament of *England*, dated *October* 17. the year aforesaid; wherein you desire, that the Noblemen, Gentlemen of quality and considerable Officers of the army, that went into *England*, under the command of *Duke Hamilton*, & who were then prisoners, might be kept as pledges for the peace of that Kingdom; by which not only have you endeavoured most unnaturally to enslave your fellow Subjects and Countrey-men to the power of Strangers: But most treacherously and treasonably, as an unworthy ungrate Patriot, done what in you lay to destroy the life of your own dread Sovereign, and the Royal Authority in him and his Succession, and to subject the Honour, liberty, power and Government of this His Majesties ancient and free Kingdom, to the command, lust and tyrannie of one faction of Foreign Traytors and Usurpers. As also, you upon the fourth day of May thereafter, having taken upon you most treasonably, the Supreme Authority of this Kingdom, gave warrant under your hand for issuing out a Proclamation, declaring that the wives, children and families of *James Lord Ogilby* Lord *Rae*, *Lewis Marquess of Huntly* therein designed *Lewis Gordon*, son to the Marquess of *Huntly*, *John* now Earl of *Middleton*, therein designed *John*

John Middleton of sometime designed General Major, should be no longer under the protection of this Kingdom, and that such course should be taken for transporting them out of their Country to Forraign parts, as the Estates of Parliament or their Committee should think fit.

Tenthly, After His Majesties dearest and most Royal Father, of eternal and most blessed memory, had been most unchristianly, inhumanely, horridly and barbarously murdered, by the said abominable Traitor and Usurper *Oliver Cromwel*, and his wicked complices, the devillish and treasonable courses, plots, contrivings and aſtings of yours did not yet terminate: For there being some motions for addreſs to be made to His Majesty, by some of His good Subjects of this His ancient Kingdom, as undoubted and rightful Successor to His deceased Royal Father in the Imperial Crown thereof, that His Majesty might come to His said ancient Kingdom, for exercising His Royal Power and Authority: The said motion and purpose being so just and lawful, you, notwithstanding of your great impudence, and daring, otherways fearing, that a direct opposing thereof would prove altogether ineffectual; you in a most indirect way, procured the application made for inviting his Majesty to be so clogged with limitations, restrictions and conditions, to have been condescended to by his Majesty, before his admission to the exercise of his Royal Government, as were most destructive to his Majesties dignity and authority, and most derogatory to Monarchical Government; as are more fully exprest in the severall Commissions, Instructions and Addreſſes sent and made to his Majesty to that effect, and publick Proclamation of his Majesty at the Mercat Croſs of *Edinburgh*, by you and your Complices, Commissioners at *Breda*; all which are here repeated as a part of the Libel *brevitatis causa*. And his Majesty upon consideration, that the said unreasonable, unlawful and treasonable conditions were exacted of his Majesty by you, and a few number of factious Subjects, who had by the assistance of the Usurper and Tyrant *Oliver Cromwel*, thrust your self into the Government of this his Majesties antient Kingdom: And trusting to the fidelity, the loyalty and good affection of his other good Subjects, having notwithstanding the said hard and unjust conditions, resolved to cast himself upon the loyalty and affections of his other good and faithful Subjects; you to obstruct his Majesties purpose and resolution, yea, and so far as in you lay, to fright and terrifie him therefrom by your and your Complices cruelty execute upon the Marquess of *Montroſs*, his Majesties Commissioner, and who represented his person in his said antient Kingdom: caused to be most horribly and inhumanely murdered the said Marquess at the Mercat Croſs of *Edinburgh*, upon the day of 1650. with all the circumstances of disgrace and dishonour; which so much reflected upon his Majesties Person, Dignity and Authority, and upon the honour of all true Nobility; and are so recent and fresh, with detestation, in the memories of all good Subjects and generous spirits at home and abroad, that it is not fit to be mentioned or repeated here: But his Majesty still continuing in his former purpose and resolution, and after a most tedious and dangerous voyage at Sea, having by the providence of Almighty God, happily and safely arrived in his said antient Kingdom; shortly thereafter, the cruel bloody Murtherer and Usurper *Oliver Cromwel*, in pursuance of his Majesty with a powerful Army of Sectaries by Sea and Land, invaded his said Majesties antient Kingdom: For opposing of whom, an Army being raised, while both the said Armies were in the field, you most treacherously and treason-

ably kept correspondence, and had intelligence with the said Usurper, by writing to, and receiving Letters from him, without his Majesties private consent or warrant; at least by sending to, and receiving Messages from him by word of mouth. And further, to advance the design of that abominable Regicide, after ye had by your indirect means, plots, advices or contrivances, gotten his Majesty removed from his Army at *Leith*: You by your influence upon a few number of the Commissioners of the General Assembly, your self being one of the number then met at *St. Cuthberts Church*, commonly called the West Kirk, prevailed so, that for the weakning of the hands of Friends, and strengthening the Enemies, there was in a most clandestine and surreptitious manner an Act, as of the said Commission of the Kirk, made, printed and published, wherein besides many reproachful and slanderous expressions of his Majesty and his Royal Ancestors, more fully exprest in the said pretended Act, bearing date *August 13, 1650.* it was declared, that you disclaimed, and would not own his Majesties Interest, because of his refusal to subscribe and emit a Declaration offered to him; and which Declaration was contrived and drawn up by you, and contains many scandalous, seditious, imperious, reproachful and treasonable Expressions, not only against his Majesties Authority and Government, but also against his Royal Father and Mother, and others his Royal Progenitors, as is more at large exprest in the foresaid Act of the date above-written, and Declaration bearing date the day of the same year: of which Declaration there

needs no more be said, than that the circumstances by which his Majesty was enforced to sign the same, are enough known to the World, and that the worthiest and greatest part of his Majesties antient Kingdom, did, even then detest and abhor the evil usage of his Majesty in that particular; when the same tyranny was exercised there by the power of you and a few evil men your Complices, which at that time had spread it self over his Majesties Kingdom of *England*; at least you and your Complices did ratifie and approve the said Act of the West Kirk, and consent thereto; and at least you did deal with, and press and force his Majesty to sign and subscribe the Declaration foresaid; at least you were Author or Contriver, Adviser or Counsellor, Perswader or Voter, or Assenter, Assister, Aider or Abetter of the foresaid Restrictions, Limitations and Conditions, and of the foresaid Murder of his said Majesties Commissioner and manner thereof, and of the keeping of the said correspondence with the said Invader and Usurper, and of the said Act and Declarations, or one or other of them, or art or part thereof, or of one or other of them.

Eleventhly, After it had pleased God to suffer the Monster of men and cruel Regicide *Oliver Cromwel.* so far to prevail against all his Majesties endeavours for recovering his just Right and Interest in this and in his other Kingdoms, and over all the Armies and Forces raised by him for that end, so that he was necessitated to refugeat himself with Forraign Princes and Estates: Howbeit at his Majesties Coronation, you in presence of God, and great many of the Nobility of this Kingdom, and others therein convened at *Scotch* the first of *January 1651.* did swear to be faithful to the Crown, and true Leidge-man to his Majesty; yet nevertheless, contrary to the said Oath, and notwithstanding the many favours, honours, benefits and Acts of Indemnity conferred upon you, and contrary to the Laws and Acts of Parliament above-exprest, you did most perfidiously, ungratefully and treasonably in *anna 1653, or*

1654, not only according to your bounden duty, not rise in Arms, and join with the Earls *Glencairn* and *Middleton*, which were commissioned from his Majesty for hindering the further progress of the Usurpers, and expelling them forth of this Kingdom: But did in open Hostility join with the said Usurpers their Forces; especially with the Collonels *Overton*, *Cobbet* and *Twisleton*; at least with the said Collonels *Cobbet* and *Twisleton*, at least with Collonel *Twisleton* when he was in the High Lands in opposition to the said Earl of *Glencairn*, at least joined with them or one or other of them in Counsel; Did take and relieve Prisoners, did furnish several pieces of great Cannon, to the number of Fourteen in anno 1653, or 1654. as also an number of Musquets to Collonel *Alured* then Governour of *Air*, which Cannon, or a great many of them were taken out by you of his Majesties Castle of *Dunbartown*, at the time and in manner above-exprest; and likewise you did take Pay from the said Usurpers for a Company of Foot under them and in their Service, thereby openly and clearly making it appear what you did intend by all your more covered and privat machinations, plottings and treasonable actings against his Majesties dearest Father and himself. Likewise, to make it appear what intimacy and power you had with the Usurper, you not only did term and call the actings of his Majesties Forces against you and the Usurpers, Rebellion; but also, you in anno 1654. did take upon you Power to bring off such as were in that Service, and to give Remissions therefore under your own Hand, particularly to *John Mackdougall* of *Dunolich*, as the same under your Hand the said *John* will verifie.

Twelfthly, The said *Oliver Cromwell*, that Monster of Men, vilest of Traitors, most cruel Murderer, bloody Tyrant and Usurper, having reached, as he thought, the end of all his Devillish plots, and Treasonable Machinations, by usurping the Domination and Authority of his Majesties three Kingdoms, and settling the same, so far as in him lay, upon him and his Family; you conceiving the same so fixed and riveted, that in humane probability it was not possible to be removed or shaken, that you might avowedly reap the Fruits of your former more covered, vile and damnable plottings, Contrivings and Actings for the said Archtyrant and Traitor; you then pulled off, and laid aside the Mask of pretended Loyalty and Religion, under which you had all along formerly lurked, thereby having deceived and cheated a great many of his Majesties good Subjects from their due Allegiance and Loyalty, under your hypocritical fair pretences of your Affection and Zeal for Religion, Prince and Country, to the utter Ruine (if not of Souls) of many of their Bodies, Estates and Fortunes, and did openly in Face of the World, discover your self in your own Colours, appearing and acting profestly and publickly in behalf of the said Usurper, against his Majesties Person and Authority; in so far as in the month of 1650, the Usurper *Oliver*, at least after the decease of the said Usurper, the succeeding Usurper, his Son, being most treasonably and tyrannically proclaimed chief Magistrat and sole protector of all his Majesties Dominions and Territories thereto belonging, at the Mercat-crosses of his Majesties Cities of *Edinburgh* and *Dunbartown*, you having apparently, for such like Services done, or to be done, received from the said Usurper *Oliver*, one Precept drawn upon the Exchequer of Scotland for payment to you of 12000 £ *sterling* or thereabout, did with your personal presence countenance and assist the said tyrannical and treasonable Proclamation thereby, so far as in you lay, divesting his Majesty of his just and Royal Interest

terest and Right, and establishing the same on the Persons and Families of the said Usurpers. Likewise, not long thereafter, the said Usurper, the more to establish himself in his usurped Government, having called a pretended Parliament, consisting of a pretended new coined House of Peers, and certain persons of his Majesties three Kingdoms, as a House of Commons to sit in *Westminster*. You did procure your self elected Commissioner for the Shire of *Aberdeen*, at least did accept of a Commission from them; albeit both by the Nobility of your Birth, and your non residence within the said Shire, you was in Law incapable to be so elected, at least ought and might have refused to accept any Commission. Nevertheless, having voluntarily, and of your own accord, embraced the said Charge and Imployment; you thereupon took Journey, and went to *London*, and most basely, perfidiously and treasonably, sit, voted, and otherways acted in the said Usurpers pretended Parliament, by whom his Majesties Right and Interest was disclaimed and abjured, and the same owned only in the said Usurpers Person, as a Member of the said pretended House of Commons, to the high indignity and contempt of his Majesties sacred person and Authority, the utter Destruction of Monarchical Government, the Dishonour of this Kingdom, and the great disgrace of your own Family and Posterity.

Thirteenthly, You the said Marquis, to make it further appear to the World, that it was always your purpose and Intention to destroy his Majesties Authority and Government, and to oppose his Restauration to his Just Right and Interest to his three Kingdoms, at a Provincial Assembly holden at *Inverary*, a litle after the Defeat of his Majesties Army at *Worcester*, The Ministers praying for his Majestie after the accustomed manner, you did most villainously and treasonably rebuke them, saying that they were but Fools to pray for a malignant and wicked King, whom God had rejected, and would never restore him again; or some such like words to that purpose. And also, you being at *London* in the time of the Usurper *Oliver*, you said in presence of divers persons of Quality, *That you wondred how People could be so mad as to call home a Family whom God had rejected*, or such words to that purpose: Likewise after your home coming to *Scotland* you openly in a publick Meeting, at *James Masterton's* in *Nidderies Wind*, in presence of several Noblemen and Gentlemen, boasted, *That ye would own any thing you had done in these things bygone; and that if it were to do, you would do it again; howbeit ye had known that all that had come would have come*: Thereby presumptuously taking upon you by outward success, to give Judgement upon the hidden and secret Counsels, and determinations of Almighty God, and thereby to alienat the affections, duties and allegiance of his Majesties good Subjects, and to harden and confirm others, such as are otherways disposed in their wicked courses towards his Majesties Person and Authority.

Lastly, That your monstrous and execrable Treason may appear to all the World, it is of verity, that in the year 1648, at a private conference betwixt you, *Oliver Cromwel*, and Colonel *Ireton*; the said *Oliver* complaining of the many Difficultiesthat attend their Affairs, by reason of the divers designs which his Majesty had on foot from time to time against them, you the said Marquis made answer, *That their danger was great indeed, in regard, that if any of these designs should take effect, they were all ruined; and thereupon gave your*

your positive Advice, that they should proceed to the questioning of the King for his Life; assuring them that they could never be safe until they had taken away his Majesties life; at least, you did know of the horrible and treasonable design of murdering his said Majesty, and did most treasonably conceal, and not reveal the same, until after the said horrid deed was committed, and so past prevention or remedy. At which time, in *Anno 1649*, publickly in face of the pretended Parliament then sitting, you told, that the Usurper *Cromwel* had told you, *That England and Scotland would never be at peace, while the King were put to death*: By all which particulars respectively, above rehearsed, it is clearly evinced, that you were and are Author, Contriver, Deviser, Consultor, Adviser, or art and part of all the foresaid crimes of Treason, and other above libelled, or one other of them in manner above declared; and thereby has incurred the pains and punishments of high Treason, and others contained in the Laws and Acts of Parliament above written: which ought and should be inflicted upon you with all Rigour, in example to others in all time coming.

31 January 1661.

O*rdere*d, That the abovewritten Ditary be given to the Marquiss of Argile, by a Herauld or Pursevant, and he to answer thereto, upon the eleventh Day of February next to come.

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for his life: saying that they could never be his until they had
seen away his Majesty's life: at least, you did know of the horrible and
terrible design of murdering his said Majesty, and did most reasonably con-
sider, and not reveal the same, until after the said horrid deed was committed,
and it past provision or remedy. At which time, in January 1649, publickly
in face of the pretended Parliament then sitting, you told, that the Usher
per your self had told you, that England and Scotland were at peace,
while the King was put to death: By all which particulars, it is clearly
manifested, it is clearly proved, that you were and are Author, Contriver, Do-
ing, Counsellor, Aider or part of all the fore said crimes of Treason,
and other above listed, or one or other of them in manner above recited;
and thereby has incurred the pains and punishments of high Treason, and o-
thers contained in the Laws and Acts of Parliament above written: which
ought and should be inflicted upon you without all Rigour, in example to others
in all time coming.

31 January 1649.

Record, That the above written Di-
tary be given to the Marquis of
Argile, by a Herald or Pursuivant, and
be to appear thereto, upon the eleventh
Day of February next to come.

TO

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thir

Edinburgh,

At the Parliament-House,

February 13. 1661.

THe Marquess of Argyle (being accused of High Treason, at the instance of Sir John Fletcher, his Majesties Advocat for his Interest) was brought to the Bar: His Lordship humbly desired but to speak a few words before read the Indictment; assuring to speak nothing in the Cause it self. Whereupon he was removed a little, and after some Debate, the House resolved that the said Indictment should be first read. Then his Lordship desired that a Bill which he had caused his Advocats give in to the Lords of the Articles, (desiring a precognition, with many reasons urging the necessity of it) to which he had received no answer, might be read before the said Indictment; which being likewise refused, the said Indictment was first read; and after the reading thereof, the Marquess (being put off his first thoughts) was compelled to this extemporary Discourse following, as it was faithfully collected from several Hands, who writ when his Lordship spoke.

May it please your Grace,

My Lord Chancellor, Before I speak any thing, I shall humbly protest my words may not be wrested, but that I may have Charity to be believed; and I shall with God's assistance, *speake truth* from my heart.

I shall, my Lord, resume *Mephibosheth's* answer to *David*, (after a great Rebellion, and himself evil reported of) saith he, 2 Sam. 19. 30. *Yea, let him take all, for as much as my Lord the King is come home again in peace into his own house*; So say I, since it has pleased God Almighty graciously to return his Sacred Majesty to the Royal Exercise of his Government over these Nations, to which he has undoubted Right, and was most unjustly and violently thrust therefrom by the late tyrannizing Usurpers.

It is, my Lord, exceeding matter of joy to us all, that that Iron-yoke of Usurpation (under which we have these many years sadly groaned) is now broke, and with much freedom this High and Honourable Court of Parliament are meeting together, under the refreshing warm Beams of his Majesties Royal Government, (so much longed for by our almost starved expectations;) and I do earnestly wish his Royal Presence upon his Royal Throne amongst us; but since at this time that great happiness cannot probably be expected, I am glad that his Majesties Prudence has singled out such a qualified and worthy person as my Lord Commissioner his Grace to represent himself, whose unspotted Loyalty to his Majesty we can all witness.

I cannot, my Lord, but acknowledge, that these two *grand Mercies*, which comfortably attends my present condition; one is, The high thoughts I deservedly entertain of that transcendent and Princely clemency wherewith his Sacred Majesty is so admirably delighted, abundantly evidenced by many

noted and *signal testimonies* in all the steps of his Majesties carriage ; as those most gracious Letters, Declarations, and that free and most ample Act of Indemnity, granted to all his Majesties Subjects, (excepting some of the immediat Murderers of his Royal Father) to eradicate any timorous Jealousies of his Majesties gracious Pardon (which might haply arise by serious reflectings) convincing them forceably of their own miscarriages in these unhappy times of distraction : The effects, my Lord, of which Princely deportment, I am confidently hopeful, his Majesty has experimentally, and shall find, prove one effectual Cement to concilliate the most antimonarchick and disaffected persons [excepting some of those barbarous Phanaticks] in *all his Majesties Dominions*, most willingly to the subjection of his Majesties Royal Scepter ; and with a perfect hatred abominate all disloyal Practices in themselves or others, in all time coming.

The second is, my Lord, When I consider that my Judges are not such as we had of late, [Strangers,] but my own Countrymen ; both which jointly [together with the real sense and solid convictions I have of my innocency of these calumnies most unjustly charged upon me] encourages my hopes the rather, to expect such dealing, as will most sympathize with that clement humour [to which his Sacred Majesty hath such a natural propensity] and such equal administration of Justice [void of all byassing prejudices] as will be most suitable to such a high and honourable Meeting.

I shall therefore, my Lord, desire to use *Paul's* answer for himself, being accused of his Countrymen, may not be mistaken, he having a learned Orator *Tertullus* accusing him, *Acts* 24. 14, 15, 16. as I have my Lord Advocate ; *Paul's* was Heresie, mine of another nature ; but I must say with him, That the things they alledge against me cannot be proved ; but this I confess, in the way allowed by solemn Oaths and Covenants, I have served God, my King, and Country [as he said] which they themselves also allow.

I shall, my Lord, remember [not with repining, but for information] my hard usage, never having had my Hearing, nor allowance of Pen, Ink, nor Paper, nor the comfort of seeing my Friends freely, until I received this Summons, which was in effect a Load above a Burden ; Enemies, both *Scots* and *English*, out of Malice calumniating me for all the same things, excepting what relates to his Majesties most Royal Father of ever glorious memory.

Therefore, my Lord, I beg charity and patient hearing, not doubting but the wisdom and goodness of the Parliament will be so favourable, and not as

the inconsiderate multitude [as a learned and able man * writes, says he,] As we see in experience, That Dogs they always bark at them they know not ; and that it is their nature, to accompany one another in those clamours ; so it is with the inconsiderate multitude, who wanting

that vertue which we call honesty in all men ; and that special gift of God [which we call charity in Christian men] condemn without hearing, and wound without offence given, led thereunto by uncertain report only ; which his Majesty King *James* only acknowledges to be the Father of Lies : I shall not desire to be in the least mistaken by any that hear me : But sure I am, it is pertinently applicable to my case.

I in-

I intreat your Lordship likewise to consider the words of another notable man, * who says, As the tongues of Parasites are ill Ballances to weigh the Verrues of Princes and great Men, so neither should theirs, nor other mens blemishes belooked upon as they are drawn with the deformed Pencil of Envy or Rancour; which do always attend Eminency, whether in place or vertue. I shall not, my Lord, be so presumptuous as to arrogate any thing to my self in this, only I want not the two Companions; for I am but a weak man, subject to many failings and infirmities, [whereof I do not purge my self] for as we must confesse to God Almighty, *Psal. 130. 3.* if he should mark iniquity, who can stand? Neither shall I say, That there cannot a Hole be discovered [as the Proverb is] in my Coat; and it cannot but be so with any, specially such as have labour'd in such times business; but I blese the Lord, that in these things which have been, and are here cast upon me, I am able to make the falsehood and misconstruction of them palpably appear.

* Speed in his History.

My Lord, before I mention any thing in particular, I must shew this honourable Meeting of Parliament, and all that hear me, [who doubtless have various apprehensions of my being present in this condition,] that I am here rather as my misfortune, nor my injury; wherein I desire to explain the difference, as *Plato* and *Aristotle* does very well; calling injuries such things as are done purposely with a wicked mind; and misfortunes, such things as are done with a good mind, though the events prove bad, yet we could not foresee them.

So, My Lord, I shall take God to record (who must judge me one day) upon my Conscience, That what I did, flowed not from any injurious principle to any, though I acknowledge the events were not still so successful (which was my misfortune) indeed; but it has been my Lot often in these times, wherein I and many others have been inevitably involved, to be by the malicious tongues of my calumniating enemies, misconstrued for the worst; yea, even in many things that the Lord was pleased to make successful: for the truth of this, I may, I hope, safely appeal to many in this Honourable House, who can abundantly witness my faithfull and Loyal Endeavours for both my King and Native Country: whereof I should be very sparing to be an Herald my self, were not the contrary so impudently affirmed. There are five main calumnies that I desire, my Lord, to satisfy all that hear me a little in; to the end that the rest of less moment may be likewise in its own due time heard afterward abstract more from personal prejudice.

The first Calumny is, my Lord, concerning that horrid and unparralleld Murder of his late Royal Majesty of eternally blessed Memory; I do here publicly declare, that I neither desire, nor deserve the least countenance or favour, if I was either accessory to it, or on the counsel or knowledge of it; which to make clearly appear, is under Oath of the Parliament Books 1649, whereof I was the first starter my self, to the intent we might both vindicate ourselves, and endeavour a discovery, if any amongst us had any accessi- on to that horrid and Villanous Crime; as also in my latter Will which I made going to *England*, in anno 1655 or 1656, fearing what possibly might hereafter be obtruded by any upon me or my Family upon that account, I set it down to clear my posterity, That I was altogether free of that detestable and execrable Crime, or of any prejudice to his Majesty, in either person or Government: I left this with a very worthy Gentleman, I believe well known

to your Lordship, and never saw it since, so your Lordship may be pleased if you will to call for it and try the truth; whatsoever other thing may be in it, I hope, my Lord, this opportunity is a mercy to me, to have that vile calumny amongst many others against me to be cleared.

And, my Lord, to make this particular yet more evident, I did still, and do positively assert, that I never saw that monstrous Usurper, *Oliver Cromwel*, in the face, nor ever had the least correspondence with him, or any of that Sectarian Army, untill the Commands of the Committee of Estates sent me, with some other Noblemen and Gentlemen to the Border, in anno 1648, to stop his march into *Scotland* after those who retired from *Preston* fight; neither after he left the Border in the year 1648, did I ever correspond with him, or any of that Sectarian Army, founstisfied was I with their way, after the wicked and sinistrous courses he and they were upon afforded evident presumptions for us to apprehend, that he and they intended prejudice to his Royal Majesty; only one letter I received from Sir *Arthur Hesilrig*, to which I returned answer, That he might spare his pains in writing to me, for I blessed the Lord who taught me by his Word, *To fear God and honour the King, and not to meddle with them that were given to change*; though Sir *Arthur* be now dead, yet he acknowledged to several in the Tower, that he still had my Letter: and when I was there, I often desired he might be posed and examined about it; which I can presently instruct. And during, my Lord, my being in *England* neither in *London* nor *Newcastle* in anno 1647. There was not any thing so much as mentioned concerning his late Majesties person; all that ever I heard of, was in publick Parliament 1647. The Commissioners papers at *London*, and the Committee Books at *Newcastle* will clear this fully.

The second calumny is anent the inhumane Murder of Duke *James Hamilton*: My Lord, it's well known my great respect to that truly Noble and Worthy person, whereof (upon all occasions) I gave ample testimonies, and can yet convince any of his friends with the reality of it; and evidenced my true sorrow for the wicked cruelty committed upon him; But indeed I cannot deny I refused to complement *Cromwell* on his behalf, he having, my Lord, been immediatly preceeding, so instrumental, and so very active in that most horrid and lamentable Murder of his late Sacred Majesty, and if I had done otherwise, undoubtedly it had been a more black Article in that Lybel now read, than any that is in it.

The third Calumny is, That which breeds a great part of these groundless Clamours (tho it be not in the Indictment) is my Lord Marquis of *Huntly's* death; wherein I may truly say, I was as earnest to preserve him, as possibly I could, (which is very well known to many in this Honourable House) and my not prevailing, may sufficiently evidence I had not so great a stroke nor power in the Parliament as is lybelled; And, my Lord, for his Estate, I had nothing in that, but for my own absolutely necessary relief, and was ever most willing to part with any interest I had therein, getting his Friends (who professed much Zeal for the standing of the Family) engaged for warrandise to me, of any portion that should happen to fall my satisfaction; and to evidence that I was no means to harm the Family, I stood with my Right betwixt all Fines and Forefeitures of Bonds, and accompted for any thing I could receive; and to manifest yet further, that the burden of that Family was not from any extrinick cause to themselves, I have under the old Marquis his own hand, and his Sons, *George Lord Gordon*, who was a very worthy young Noble-

Nobleman, the just Inventory of their Debts, amounting to about one million of Merks, in *anno* 1640. It would I fear, my Lord, consume too much of the Parliaments precious time, to hear many other circumstances to make this particular more clear, which I shall at this time forbear.

The fourth Calumny is, the death of the Marquis of *Montrose*; There are many in this House, my Lord, who know very well I refused to meddle either in the matter or manner of it; and so far were we from having any particular Quarrels at one another, that in *anno* 1645, he and I were fully agreed upon Articles and Conditions contained in a Treaty past betwixt us; the Gentleman is yet alive who carried the messages both by Word and Writing betwixt us; and it was neither his fault nor mine that the business did not end at that time, which is known to all, proved very obnoxious to the Kingdom thereafter.

The fifth Calumny is concerning my dealing with the *English* after *Worcester* fight; It is well known, my Lord, to many, that my self, and the Gentlemen of *Argyleshire*, my Kinsmen, Vassals and Tennents, endeavoured cordially to engage all their Neighbours about them on all hands, against the *English*, which they did not prevail in, but was most unhappily made known to the *English* Commanders for the time; which they caused immediately publish, as a very notable Discovery, in their news Books; which occasioned two sad disadvantages to us: for they not only crushed our Attempts in the infancy, but also determined the severer Resolutions against us; whereby two strong Regiments of Foot, *Overmours* and *Reads*, and very near the number of one of Horse, under the Command of one *Blackamour*, were sent to *Argyle*, and when *Dean* came there, it pleased God to visit me with a great distemper of sickness, as Doctor *Cunninghame*, and many others who were with me, can witness, what my Lord, I was prest to when I was violently in their hands, may be instructed by the paper it self, written by *Deans* mans own hand yet extant to shew, which I did absolutely refuse upon all the hazard of the uttermost of their malice; as also what I was necessitate to do, is likewise ready to be shown, whereby I was still continued their Prisoner upon demand.

I shall, my Lord, add one Reason more to clear this (besides many other weighry publick Reasons and Considerations, which I shall forbear to mention at this time, it being more natural to bring them in by way of Defences afterward) my own Interest, and of all Noblemen and Superiors in *Scotland*. It may be rationally presumed, that I had been a very senseless fool, if ever I had been for promoting such an Authority or interest over me, as levelled all, and was so totally destructive to all that differenced my self and other Noblemen, from their own Vassals, (which many says I was too earnest in) Yea, it being absurdly derogative to all true Nobility; and my Ancestors and I (as is said in that Libel) having had so many Titles of Honour, Dignity, and eminent places of Trust conferred upon us by his Majesties Royal Predecessors and himself, (all for our constant Loyalty and adherence to the Crown at all occasions: as the Records and Histories of this antient Kingdom holds forth, besides the Narratives of all our Grants) and asserting the just privileges thereof against all opposers) I did, my Lord, ever (even when the *English* were at the intollerable height of Usurpation) declare my true abhorrence to a Common-wealth Government, which was well known to them all. I was not indeed, my Lord, very dissatisfied when there was Rumours spread abroad of *Cromwells* being made a King, as some here present can witness: For I told them it was a most probable way for his Majesty; and the more it

were encouraged, would tend the more to *Cromwel*, and their deformed Commonwealths Governments Ruine, and promote his Majesties just interest the more. My Lord, I shall not much blame my Lord Advocat for doing his endeavour [it being an essential part of his Function to accuse] but I must say, That it is very hard measure, that so able a man has taken near as many Months, in taking pains to prompt as many Enemies as his persuasions could possibly invite, to vent out the highest notes of their malice, and laying out search by them for, and collecting all the bad Reports, or rather, to give them their genuine term, I may call them a confused Mass of the common Clashes of the Country, thereby to devise misconstructions of all the publick actings, of both Parliaments and Comittees, during the late troubles, and with strange and remote inferences to adduce all those to the channel of my particular actings; he has taken, I say, my Lord, as many Months, as I have had days, to answer them, being an exceeding disadvantage. But my Lord, that's not all, I am likewise extreemly troubled, that he labours in that Libel all along to draw an obscure vail of perpetual oblivion over all my good services; and specially my faithful and loyal endeavours in restoring of his Sacred Majesty to the Crown of this his most Antient Kingdom of *Scotland*, and the exercise of his Majesties Royal Authority therein, with my cordial endeavours for his Majesties Restitution to the rest of his Dominions also, which his Majesty both knows, and has been pleased often to acknowledge it to have been good service; yea, and many present in this Honourable House knows, that I extended both my Zeal and Affection to the utmost of my Power for his Majesties Service in that particular, which I willingly acknowledge nothing, my Lord, but my duty, whereunto I was tyed both by natural, civil, and Christian Bands to my Sovereign, and specially such a King of whom I may say well [as I have often affirmed] That he is a King in whom the Lord has been pleased to take such pleasure, as to possess his Majesty with so many superlative degrees of Excellency, that will certainly exalt his Majesties Fame both in our Age, and to subsequent Posterity, above all the Monarchs in the World; so, that my Lord, we may consequently discover a high Demonstration of the Lords singular Kindness, and special providential care for us his Majesties Subjects, in preserving such a rich Blessing as his Sacred Majesty (in whom the Happiness of these Nations is wrapt up) under the safe Wings of his Divine Protection, I may say, *Psal: 56.* even when the extravagant malice of men would have swallowed him up. 2.

After my Lord had ended this discourse (being heard by all very attentively, without any Interruptions) Thus the Lord Advocate spoke to my Lord Chancellor. My Lord, what can the Marquis of *Argyle* say to the opposition at *Stirling*, in anno 1648. The Marquis replied, That he found my Lord Advocat endeavoured to bring him to debate the particulars [which he hoped should be cleared at another more convenient time] and waved answering the thing it self, but insisted thus: My Lord Chancellor, I have [informative only] hinted a little at the main things which I am often charged with, my Memory cannot fully reach all, neither will time permit to circumstantiate these particulars, which I have only touched in the general; nor is it my purpose at present to fall on the debate of any of that Libel [not having yet consulted the Process] by reason these Advocats your Lordship

ship was pleased to allow me, have not yet all embraced; and the excuses of my ordinary Advocats [in whom I had confidence] being admitted as relevant. And thir Gentlemen, that has been pleased [in obedience to your Lordships Command] to come here with me, not being much acquainted with matters of this weight, and not having imbraced till within these two or three days: So that they are strangers altogether to my case] I shall therefore my Lord, humbly desire, that a competent time may be allowed me, that I may prepare my Defences, and I shall [God willing] abundantly clear every particular in that Libel. And also my Lord, I humbly desire, that these other Advocats, who were ordained by your Lordships to assist me [and after the Honourable Lords of Articles had heard them, rejected their excuses] may be now reordained to consult and appear for me.

The Marquis his Advocates entered a Protestation, that what should happen to escape them in pleading [either by word or Writ] for the Life, Honour, and Estate of the said Noble Marquis, their Client might not thereafter be obtruded to them as Treasonable, whereupon they took instruments.

The Marquis assured my Lord Chancellor, That he knew not of any such Protestation to be presented, and that it flowed simply of themselves; whereupon my Lord Chancellor desired the Marquis and his Advocats to remove, till the House should consider both of my Lords desire, and the Advocats Protestation.

The Marquis and his Advocats being removed. The House [after some small debate] resolved, as to my Lord Marquis desires, his Lordship should have till the 26 of *February* to give in his Defences in Writ, and ordained Mr. *Andrew Ker* to be one of his Advocats.

As to the Advocats Protestation, the House resolved, That they could not be allowed to speak Treason either by word or Writ but upon their peril, only allowed them in the general, as much as in such cases was indulged to any. The Marquis and his Advocats being called in, my Lord Chancellor intimated the foresaid Resolutions of the House, both in reference to my Lord Marquis, and to the Advocats Protestation.

When my Lord Chancellor had done, the Marquis spoke as followeth;

My Lord Chancellor,

There is one thing that had almost escaped me, anent that opposition at *Stirling*, 1948. That my Lord Advocate was speaking of, That it may not stick with any of this honourable meeting, I shall ingenuously declare, that after the Defeat at *Prestoun*, I was desired to come and meet with the Committee of Estates (meaning those who were in the then Engagement) And being come with some of my Friends to *Stirling*, fearing no harm, and suspecting nothing, I was Invaded by Sir *George Monro*, where several of my Friends were killed, and my self hardly escaped, which is all that can be said I acted in Arms as many here knows.

My Lord, Not that I am any ways diffident; but I shall in due time clear every particular of that Libel; Yet I am not a little troubled that some who have heard the Calumnies therein; may let them have such an impression (being asserted with such confidence) as to conceal a possibility, if not a probability of their being true; I shall therefore desire so much Charity from this honourable Meeting, that there be no hard thoughts entertained till I be fully heard.

(8)
The Marquiss therefore with the joynt concurrence of his Advocates,
humbly desired, that the Bill (containing many pungent Reasons) for a
prosecution of his Process, given to the Honourable Lords of Articles, might
be read and considered, in plene Parliament.

To which my Lord Chancellor replied, that it had been formerly refused
at the Articles, and that it would not be granted.

So his Lordship was carried back to the Castle.

Edinburgh, March 5. 1661. *At the Parliament House.*

The Marquiss of Argyle being called in, gave in a Bill containing several weighty
Reasons, desiring a continuation till the Meeting of Parliament to Morrow. His
Lordship being removed, after a long Debate, it was carried against him by
two or three Votes; and his Lordship being called in, my Lord Chancellor told
him it was refused, and ordered his Lordship to produce his Defences, where-
upon he spoke as followeth;

May it please your Grace,

MY Lord Chancellor, This Business is of very great concernment to me,
and not small in the preparative of it to the whole Nation; Yea, it
may concern many of your Lordships (who are sitting here) and
(your Posterity;) And therefore I desire to have your Grace (my Lord
Commissioner) and the remanent Members of this honourable Meeting, your
patience to hear me a few words without prejudice or misconstruction, which
any thing I can say is often obnoxious to.

I shall my Lord begin with the Words of that Godly King, *Jehosaphat that
good King of Judah*, (after he was come back in peace to Jerusalem) in his
Instructions to his Judges, he desires them to take heed what they do, for they judge
not for Men, but for the LORD, who is with them in the Judgement.

My Lord, I shall speak another Word to many young Men, who were ei-
ther not Born, or so Young that it is impossible they could know the begin-
ning of these Businesses, which are contained in the Libel against me (being
all that hath been done since the Year 1638,) so that they might have heard
by report, what was done, but not why, or upon what Grounds, and what
some have Suffered, but not what they have deserved. — Therefore I desire
your Lordships Charity, until all the particulars and several Circumstances of
every Particular be heard, without which no Man can Judge rightly of any
Action. For as it is well observed by that incomparable Grotius, that Aristotle
asserts, that there is more certainty in the Mathematicks than Morals, for as Gro-
tius has it, the Mathematicks separates Forms from Matters, as betwixt Straight
and Crooked there is no midst, but in Morals, even the least Circumstances vary
the Matter, so that they are wont to have something betwixt them, with such Lat-
itudes, that the Access is near sometime to this, sometime to that Extremity; So that
betwixt that which ought to be done, and that which ought not to be done, is inter-
posed, that which may be done, but is nearer now to this, than to the other
Extremity

(9)

Extremity, or part, whence ambiguity often ariseth? The particular Circumstances are so obvious to every understanding Man, that I need only mention them.

Maxim 1. Polybius my Lord makes much of his History depend upon these three, *Constitio, Causa, et eventus*; and there are likewise other three, *Tempus, Locus, et Persona*, The change whereof makes Counsels; that which is lawful duty, unlawful, and on the contrary, so Causes, likewise in speaking or repeating words, the adding or paring Events, from them, will quite alter the sence and meaning; as also in Time, Place, writing, the placing of the Comma's or Points, will change the Persons, sentence to a quite other purpose than it was intended.

Maxim 2. There is my Lord, another Maxim, which I do not mention as always undeniable; but when there is no lawful Magistrat exercising power and authority in a Nation, but an invading Usurper in possession, esteeming former Laws, Crimes; In such a case I say the safety of the people is the Supream Law.

Maxim 3. There is another Maxim, which is not questioned by any, and it is, *Necessity has no Law*; for even the Moral Law of God yields to it, and Christ's Disciples in Davids example: For this Seneca sayes, *Necessity* (the defence of humane imbecility) *breaks every Law*; Nam *necessitas legum irritat vincula*, Necessity scorns the fetters of Laws: So he that answers that Libel, The long Parliament revived, speaking of this last Parliament (which his Majesty calls, a blessed healing Parliament,) he says, the necessity to have it; may dispense with some formalities: so *Ravenella* (so much esteemed in matters of Scripture) after he has divided necessity in *absolute* and *hypothetick*, makes that of submitting to Powers of absolute necessity: *Josephus* also, my Lord, that famous Historian, when he mentioned Davids speech to his Children, after he had made Solomon (being but younger brother) King, he exhorts them "to unity among themselves, and submission to him and his Authority; for if it should please God to bring a forraign sword amongst you, you must submit to them, much more then to him who is your brother, and one of your own Nation.

Maxim 4. There is another Maxim, (my Lord) *Inter arma silent leges*; and it is well known, that divers retours and other things in Scotland, were done in consideration of times of Peace, and times of War.

Maxim 5. Another Maxim, *Ex duobus malis minimum eligendum est cum unum eorum nequeunt evitari*, says *Aristotle*, *Cicero*, and *Quintilian*, *cum diversa mala inter se comparantur minimum eorum locum boni occupat*.

Maxim 6. There is another Maxim, "No mans intencion must be judged by the event of any Action, there being oftentimes so wide a difference betwixt the condition of a Work, and the intencion of the Worker.

Maxim 7. I shall only add another Maxim, "It cannot be esteemed Virtue, to abstain from Vice; but where it is in our power to commit the Vice, and we meet with a Temptation.

As I have named shortly some few Maxims, my Lord, I shall humbly tender some weighty Considerations to your Lordships thoughts:

Consider. 1. The first Consideration is, That there is different Considerations to be had of Subjects actions when their lawful Magistrat is in the exercise of his Authority by himself, or others lawfully constituted by him, and when there is no King in *Israel*.

Consider. 2. The second is, That there is a different Consideration betwixt

the Subjects actions; when the lawful Magistrat is in the Nation, and when he is put from it, and so forced to leave the people to the prevalent power of a Foreign Sword; and the Invader in possession of Authority.

Consider. 3. Thirdly, That there is a difference betwixt Subjects actions; even with the Invading Usurper, after the Representatives of a Nation have submitted to, and accepted of their Authority and Government; and they in possession several Years; the Nation acknowledging their Constitutions, and all the Lawyers pressing and pleading them as Laws.

Consider. 4. Fourthly, The actions of Subjects are to be considered, when assisting the lawful Magistrat to their power, and never submitting to the invading Usurper until they were prisoners, and could do no better.

Consider. 5. Fifthly That there is likewise consideration to be had of the actions of such Subjects, being still prisoners upon demand under Articles to that purpose.

Consider. 6. Sixtly, It is to be considered likewise of the actions of such a Subject, who was particularly noticed and persecuted by the Invader, for his affection to the lawful Magistrat and his Government.

Consider. 7. Seventhly, It is to be considered, that there is a great difference betwixt Actions done *ad lucrum captandum*, and those done *ad damnum evitandum*; that is to say, Actions to procure Benefit, and Actions to shun detriment.

Consider. 8. Eightly, It is to be considered, that there hath ever been a favourable consideration had, by any Prince, of any person coming voluntarily, and casting himself upon a Princes Clemency.

Consider. 9. Ninthly, It is to be considered, that his Majesty himself hath a gracious natural Inclination unto Clemency and Mercy, which hath been so abundantly manifested to his Subjects in *England*, even to all (except to some of the immediat Murderers of his Royal Father) that it cannot be doubted, that the same will be wanting to his People in *Scotland*, who suffered by them (whom his Majesty hath graciously pardoned) even for their dutiful Service, and affection to his Majesty.

Therefore without thought of any prejudice to the Parliament, or this Honourable Meeting, I must make use of my Lord Chancellor of *England* his words, though in another case, saying, *There cannot too much evil befall those who do the best they can to corrupt his Majesties good Nature, and to extinguish his Clemency*: For his Majesties self declared his Natural Inclination to Clemency, in his Speech to both his Houses of Parliament in *England*, whom he hath (with all his people) conjured, desired, and commanded, to *abolish all Notes of Discord, Separations, and difference of Parties, and to lay aside all other Animosities, and the memory of past Provocations, and to return to a perfect Unity amongst themselves under his Majesties Protection*; which is hoped all your Lordships will concur in, having so worthy a Pattern to follow: And as these are his Majesties Inclinations exprest, so it is suitable to the Arms he bears as *King of Scotland*, which is the *Lion*, whose Motto is known to all.

— *Nobilitate in a Leonis*
Parcere subiectis, & debellare superbos.

Which is to say, To vanquish and subdue the Proud, and spare such as are submissive, of the which Number I am one: And for that effect, in all Humility, present this humble Submission to his Majesty, and your Grace, my Lord Commissioner in his Majesties Name.